



402-038-19

IN THE UNITED STATES PATENT & TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Applicant: David G. McCarthy	:	Examiner: B. Hammond
	:	
Title: Retractable Receptacle For Furniture	:	Group Art Unit: 2833
	:	
Serial No. 08/951,276	:	
	:	
Filed: October 16, 1997	:	

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450


Mail Stop: Appeal Brief - Patents

REPLY BRIEF

This Reply Brief is being filed in response to the Examiner's Answer dated April 1, 2008, in connection with the appeal of the above identified patent application.

At page 2, Section (7), the Examiner's Answer states that Claim 19, as reproduced in the Appendix of Appealed Claims filed with the Appeal Brief on January 9, 2008, includes the recitation

**I hereby certify that this correspondence is
being deposited with the United States Postal Service
as first class mail in an envelope addressed to
Commissioner for Patents, P.O. Box 1450, Alexandria,
VA 22313-1450, on the date indicated below.**


MARK P. STONE
Reg. No. 27,954

4/23/08
(Date of Deposit)

"and a housing mounted to an underside of said top surface of said article of furniture" which was not examined in the final Official Action. The discrepancy between Claim 19, as reproduced in the Appendix of Appealed Claims, and Claim 19 which was examined in the final Official Action, is explained at page 2, second paragraph of the Appeal Brief. This discrepancy resulted from a typographical error in Claim 19 as presented in the Amendment filed on October 26, 2006. The recitation "and a housing mounted to an underside of said top surface of said article of furniture" is necessary to provide proper antecedent basis for the recitation "said housing" recited thereafter in appealed Claim 19. Applicant will take the appropriate corrective action upon conclusion of the present Appeal, and respectfully submits that the omitted recitation does not affect the substance of the pending appeal.

In Section (10) (page 4) of the Examiner's Answer, the Examiner responds to the arguments presented by Applicant in the Appeal Brief. The Examiner's Answer initially contends that elements 45a and 45b of the Cole patent provide means for resiliently biasing the receptacle unit into its extended position. Applicant respectfully disagrees with this conclusion. As more fully discussed at pages 9 - 11 of the Appeal Brief, the Cole patent provides no means for resiliently biasing the receptacle into its extended position. On the contrary, because Cole provides no means for resiliently biasing the receptacle into its extended position, it is necessary to manually lift the

receptacle by its handle into its extended position. It is only after the receptacle is manually lifted into its extended position that the stops 45a and 45b, which act in a lateral direction relative to the receptacle, maintain the receptacle in its extended position. Elements 45a, 45b clearly do not resiliently bias the receptacle of Cole from its retracted position into its extended position. The Examiner's Answer concedes that the stops 45a, 45b do not engage the receptacle until the receptacle unit 10 of Cole is "manually pulled upward" into its extended position (Examiner's Answer, page 4, last paragraph). If the elements 45a and 45b were provided to resiliently bias the receptacle into its extended position, it would not be necessary for the receptacle unit 10 to be "manually pulled upward" into its extended position.

Moreover, even when the receptacle 10 of Cole is manually pulled upward into its extended position and the stops 45a and 45b engage the receptacle to releasably lock it in its extended position, the stops 45a, 45b do not exert a resilient bias or or the receptacle in a direction of its extended position. On the contrary, the stops 45a, 45b exert a force in a different direction (laterally relative to the receptacle) and not upwardly relative to the receptacle to bias it in its extended position. The stop elements 45a, 45b do not exert an upwardly directed force on the receptacle 10, either in its retracted position, or in its extended position.

The Examiner's Answer, at page 5, also disagrees with Applicant's argument presented in the Appeal Brief that the stops 45a, 45b of the Cole patent cannot exert a resilient bias on the housing urging it into its extended position. As discussed above, Applicant respectfully submits that the stops 45a, 45b do not exert a resilient force urging the receptacle from its retracted to its extended position, as disclosed and claimed by Applicant, because the stops 45a, 45b exert a laterally directed force on the receptacle only after it has been manually lifted into its extended position.

The Examiner's Answer further states at page 5 that "...If the means 45a, 45b were not biasing the receptacle into the extended position, the receptacle would fall back into the non-extended position." Applicant again respectfully submits that the stops 45a, 45b do not provide "means for resiliently biasing said receptacle unit into said extended position" as expressly recited in appealed independent Claim 6 and 19, but merely maintain the receptacle in its extended position after it has been manually lifted into that position. As the Examiner's Answer notes, once the stops 45a, 45b disengage the receptacle in its extended position, the receptacle will fall back into its retracted position (Examiner's Answer, page 5, first paragraph). Thus, the stops 45a, 45b do not act in a direction which will resiliently bias the receptacle into its extended position.

At page 5 of the Examiner's Answer, the Examiner disagrees with Applicant's argument in the Appeal Brief that the elements 27, 37 of the Cole patent do not provide releasable locking means. However, as discussed more fully at pages 12 - 13 of the Appeal Brief, elements 27, 37 of the Cole device are flanges which engage the stops 45a and 45b after the receptacle has been manually lifted into its extended position. Therefore, elements 27, 37, in cooperation with the stops 45a and 45b, maintain or releasably lock the receptacle in its extended position. However, the releasable locking means disclosed by Applicant and recited in appealed independent Claims 6 and 19 are provided for an entirely different purpose than the elements 27, 37 disclosed by the Cole patent. The cooperating releasable locking means disclosed and claimed by Applicant are provided for opposing the means for resiliently biasing the receptacle into its extended position, for the purpose of retaining the receptacle in its retracted position. It is only when the resilient bias on the receptacle into its extended position overcomes the locking means maintaining the receptacle in its retracted position, that the receptacle will move from its retracted position to its extended position. Element 27, 37 of the Cole patent provide releasable locking means for maintaining the receptacle in its extended position after it has been manually lifted into its extended position, and do not provide releasable locking means for maintaining the receptacle in its retracted position until the locking means are released and the resilient bias overcomes the force of the locking means.

For the reasons discussed herein, in the previously filed Appeal Brief, and during the prosecution of this patent application, Applicant respectfully submits that appealed Claims 6, 19 and 20 are allowable over the prior art applied in the final Official Action, and respectfully requests that the rejection of the claims be reversed.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read 'M P Stone', is written above the typed name.

Mark P. Stone
Reg. No. 27,954
Attorney for Applicant
25 Third Street, 4th Floor
Stamford, CT 06905
(203) 329-3355